

TEXAS APPRAISER LICENSING  
AND CERTIFICATION BOARD

vs.

TERRY DON ROBERTS  
TX-1330356-R

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DOCKETED COMPLAINT NO. 09-249

**AGREED FINAL ORDER**

On this the \_\_\_\_\_ day of \_\_\_\_\_, 2011, the Texas Appraiser Licensing and Certification Board, (the Board), considered the matter of the certification of Terry Don Roberts, (Respondent). The Board makes the following findings of fact and conclusions of law and enters this Order:

In order to conclude this matter Terry Don Roberts neither admits nor denies the truth of the Findings of Fact and Conclusions of Law contained herein and further agrees to the disciplinary action set out in this Agreed Final Order. The Board makes the following findings of fact and conclusions of law and enters this Order in accordance with TEX. OCC. CODE § 1103.458:

**FINDINGS OF FACT**

1. Respondent Terry Don Roberts is a state certified residential real estate appraiser who is or was certified during all times material to this complaint.
2. Respondent is subject to the jurisdiction of the Board, the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE Chapter 1103 (Vernon 2007) (the Act), the Rules of the Board, 22 TEX. ADMIN. CODE §§153, 155, 157 (West 2007) (the Rules), and the Uniform Standards of Professional Appraisal Practice (USPAP) in effect at the time of the appraisal.
3. Respondent appraised real property located at 3107 51<sup>st</sup> Street, Dallas, Texas ("the property") on or about June 10, 2009.
4. On or about June 19, 2009, a signed complaint was filed by Nicklous Nelson based on allegations that the Respondent had produced an appraisal report that contained various deficiencies.
5. On or about June 25, 2009, the Board, in accordance with the mandate of the Administrative Procedure Act (the APA), TEX. GOV'T CODE ANN. Chapter 2007, notified Respondent of the nature and accusations involved and Respondent was afforded an opportunity to respond to the accusations alleged by the Complainant. Respondent's response to the complaint was received.

6. Respondent violated TEX. OCC. CODE § 1103.405, 22 TEX. ADMIN. CODE §§ 153.20(a)(3) and 155.1(a) by the following acts or omissions which did not conform to USPAP in effect at the time of the appraisal report for the property:

- (a) Respondent failed to accurately identify the date of the report;
- (b) Respondent failed to consider and report zoning restrictions and ordinances impacting the property;
- (c) Respondent failed to identify and analyze the effect on use and value of existing land use regulations, economic supply and demand, physical adaptability of the real estate and market area trends;
- (d) Respondent failed to provide a brief summary of his rationale for his determination of the property's highest and best use;
- (e) Respondent failed to use an appropriate method or technique to develop an opinion of the site value;
- (f) Respondent failed to collect, verify, analyze and reconcile the cost of new improvements and accrued depreciations and generally failed to correctly employ recognized methods and techniques in the cost approach;
- (g) Respondent failed to adequately collect, verify, analyze and reconcile comparable sales data and did not employ recognized methods and techniques in the sales comparison approach;
- (h) Respondent failed to explain and support the exclusion of the income approach;
- (i) Respondent failed to analyze multiple prior transfers of the property within three years prior to the effective date of the appraisal;
- (j) Respondent failed to reconcile the quality and quantity of the data within the approaches used, and the applicability or suitability of the approaches; and,
- (k) D Respondent's report contains substantial errors of commission or omission as detailed above which resulted in a misleading appraisal report for the property.

7. Respondent omitted material facts and made material misrepresentations in the appraisal report for the property as detailed above.

8. The parties enter into the following consent order in accordance with TEX. OCC. CODE § 1103.458.

### CONCLUSIONS OF LAW

1. The Texas Appraiser Licensing and Certification Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.451-1103.5535.

2. Respondent violated the following provisions of USPAP as prohibited by 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(3): USPAP Standards Rules: 2-2(b)(vi); 1-2(e)(iv) & 2-2(b)(viii); 1-3(a) & 2-2(b)(viii); 1-3(b) & 2-2(b)(ix); 1-4(b)(i) & 2-2(b)(viii); 1-4(b)(ii) & 2-2(b)(viii); 1-4(b)(iii) & 2-2(b)(viii); 1-1(a) & 1-4(b); 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 2-29b)(viii); 1-5(b) & 2-2(b)(viii); 1-6(a) & (b) & 2-2(b)(viii); 1-1(a); 1-1(b); 1-1(c) and, 2-1(a).

3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(9) by making material misrepresentations and omitting material facts.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with TEX. OCC. CODE §1103.458.

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that the Respondent shall:

- a. Attend and complete a minimum, 15 classroom-hour course in USPAP; ✓
- b. Attend and complete a minimum, 15 classroom-hour course in Residential Case Studies; ✓
- c. Attend and complete a minimum, 15 classroom-hour course in Cost Approach; ✓
- d. Attend and complete a minimum, 7 classroom-hour course in Quality Control; ✓
- e. Have his certification revoked with that revocation being fully probated for a period of eighteen months (18), under the following condition:
  1. During the entire eighteen-month probation period Respondent shall submit on a form prescribed by the Board, an appraisal experience log to the Board every three months. The log shall detail all real estate appraisal activities he has conducted during the previous three-month period. This experience log shall be signed by Respondent and contain a notarized affidavit attesting that the log is true, complete and fully accurate. Upon request from the Board, Respondent shall provide copies of his appraisal reports and work files for any appraisal assignments he performs during the course of his period of probation within twenty days of notice of such request;

2. Timely comply with all the terms and conditions of this Agreed Final Order;
- f. Pay an administrative penalty of \$750; and,
- g. Comply with all future provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

**ALL CLASSES** required by this Agreed Final Order must be classes approved by the Board and must be completed within **TWELVE MONTHS** of the date of this Order and documentation of attendance and successful completion of the educational requirements of this Order shall be delivered to the Board on or before the end of the eighteen-month period indicated. None of the classes or seminars required by this Order may be taken through correspondence courses. Unless otherwise noted above, all classes must be in-class, have an exam, and Respondent must have a passing grade on the exam given in each class. None of these required classes will count toward Respondent's continuing education requirements for licensure or certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy the terms of this agreement.

Failure to comply with any of the terms of this Agreed Final Order within the time allotted shall result in **IMMEDIATE REVOCATION** of the Respondent's certification pursuant to notice to the Respondent from the Board indicating that the Respondent has not fulfilled the requirements of this Agreed Final Order.

**ANY SUCH REVOCATION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.** Respondent shall be notified of any such revocation by certified mail, return receipt requested, to the last known address as provided to the Board.

Respondent, by signing this Agreed Final Order, waives the Respondent's right to a formal hearing and any right to seek judicial review of this Agreed Final Order. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 3 day of February, 2011.

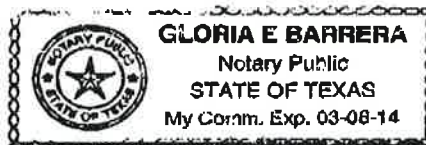


TERRY DON ROBERTS

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 3 day of Feb, 2011, by TERRY DON ROBERTS, to certify which, witness my hand and official seal.

  
Notary Public Signature

Gloria E. Barrera  
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 18<sup>th</sup> day of February, 2011.

Troy Beaulieu  
Troy Beaulieu, TALCB Staff Attorney

Signed by the Commissioner this 18<sup>th</sup> day of February, 2011.

Douglas Oldmixon  
Douglas Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 18<sup>th</sup> day of February, 2011.

James B. Ratliff  
James B. Ratliff, Chairperson Luis De la Garza  
Texas Appraiser Licensing and Certification Board